

# Board of Zoning Adjustment

## Staff Report

November 2, 2020



**Case No:** 20-VARIANCE-0117  
**Project Name:** Ash Variance  
**Location:** 1016 Ash Street  
**Owner:** Eric and Danielle Scholtens  
**Applicant:** Danielle Scholtens  
**Jurisdiction:** Louisville Metro  
**Council District:** 10 – Pat Mulvihill  
**Case Manager:** Nia Holt, Planner I

### REQUEST

- **Variance** of Land Development Code Section 5.1.12.A.2.a to allow a structure to encroach into the required front yard setback on an infill lot.

Location	Requirement	Request	Variance
Front Yard	10-30 ft	4 ft	6 ft

### CASE SUMMARY/BACKGROUND

The subject property is zoned R-5 and is in the Traditional Neighborhood Form District. The site contains an existing single-family structure. The applicant has begun construction on a front deck. The new wooden deck will also be attached to a portion of the southeast side of the principal structure. This new deck triggers a variance because the site is on an infill lot and it will encroach into the established front yard setback of the block face.

### STAFF FINDING

Staff finds that the requested variance has been adequately justified or meet the standards of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of granting a variance established in the Land Development Code from section 5.1.12.A.2.a to allow a structure to encroach into the required front yard setback on an infill lot.

### INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

### RELATED CASES

None.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.12.A.2.a**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the deck will be constructed to comply with all building codes, including fire codes.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity, as the proposed deck will be of a similar design and material as other decks in the surrounding area.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the deck will be constructed to comply with building codes and out of the public right-of-way.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as it does not greatly alter the current circumstances. The subject property is built closer to the street than other structures on the block face, but it is not the only one built with a 10 ft setback. The proposed deck is not much closer to the property line, and the house and deck are elevated above the public sidewalk.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the deck has been designed to fit the needs of the property owner, the shape of the lot, and location of the existing home.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is requesting a variance after construction has begun.

### **VARIANCE PLAN REQUIREMENT**

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

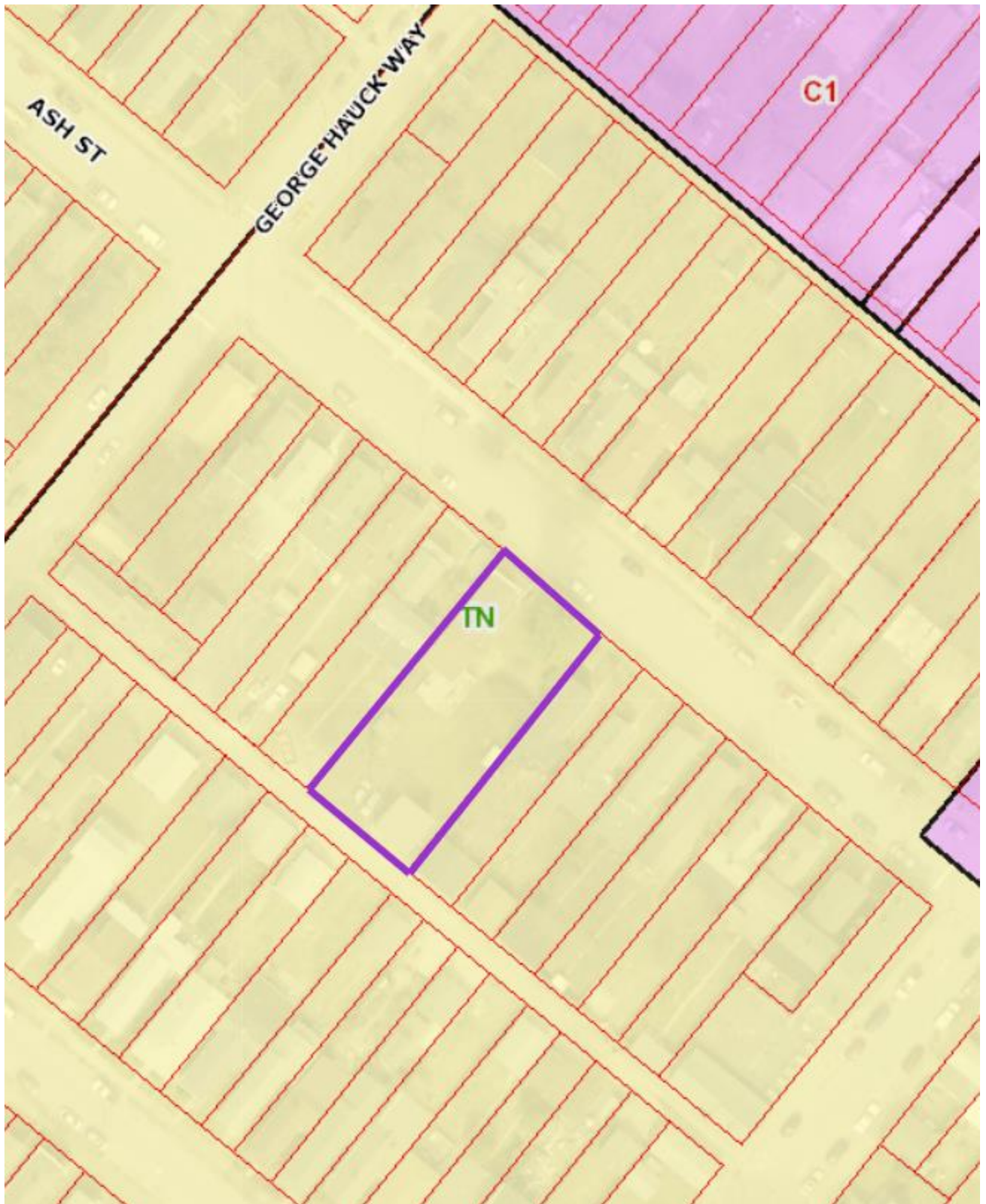
#### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>10/15/2020</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
<b>10/20/2020</b>	Hearing before BOZA	Notice posted on property

#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan

1. Zoning Map





2. Aerial Photograph



### 3. Site Plan

